inputs unavailable to GCI. Consequently, forbearance could make it uneconomic for GCI to serve many of its present customers and new customers alike.

84. Second, even if a CLEC serves some of its customers using its own facilities exclusively, the CLEC (and other reasonably efficient competitors) may be impaired if regulated access to UNEs is denied. GCI presently can serve some customer groups in certain geographic markets economically using it own facilities exclusively, and GCI is doing so. However, GCI cannot presently operate economically in many relevant markets using its own facilities exclusively, nor will it be able to do so in the near future. As noted above, GCI cannot presently serve many residential customers economically using its own facilities exclusively. Nor can GCI economically serve many medium and large enterprise customers. Furthermore, abrupt termination of UNEs could well make it physically impossible or economically infeasible in the short run for GCI to serve even the residential customers it ultimately plans to transition to full facilities-based operation. Consequently, any contention that a reasonably efficient competitor can serve all customers in Anchorage economically via full facilities-based operation because GCI is able to serve some customers in this manner is unfounded.

85. Third, GCI's past retail success in a setting where it is has been afforded regulated access to UNEs may be a very poor indicator of its future retail success in a setting where such access is denied. Therefore, Professor Shelanski's appeal for forbearance in Anchorage based on the Commission's conclusion that it will "deny access to UNEs in cases where the requesting carrier seeks to provide service exclusively in a market that is sufficiently competitive without the use of unbundling" [*TRO Remand*, ¶34] is not well-founded. Prevailing market shares in Anchorage have not been achieved "without the use of unbundling."[56]

86. Fortunately, the Commission is well aware of the need to distinguish between competition derived from regulated access to UNEs and other forms of competition. The Commission limited the forbearance it granted to Qwest in Omaha to wire center service areas in which Cox had demonstrated considerable ability to provide local exchange and exchange access service economically "without relying on Qwest's local exchange facilities." [*Omaha Decision*, ¶81] The Commission has noted that a competitor "is not able to provide the same level of

[56] As the Commission notes, "to the extent that competition has evolved in the local exchange services market, … such competition has not evolved without UNEs. Instead, … competition in this market has been substantially affected by, if not enabled by, the availability of UNEs." [*TRO Remand*, ¶38]

competition where it does not have extensive [facilities] coverage as where it has such coverage," and so has correctly concluded that "forbearing from section 251(c)(3) and the other market-opening provisions of the Act ... *where no competitive carrier has constructed substantial* competing "last-mile" facilities is not consistent with the public interest ..." [*Omaha Decision*, ¶60]

B. ACS would enjoy market power if forbearance were adopted in Anchorage.

87. Because GCI and reasonably efficient competitors would be impaired without regulated access to UNEs, ACS would enjoy market power if forbearance were adopted in Anchorage. For the reasons identified above, CLECs must either have access to non-ACS UNEs at competitive rates or be able to serve customers economically using full facilities-based operation if ACS' wholesale market power is to be constrained. (Resale-based competition and competition based on negotiated UNE rates will not eliminate market power.)

88. ACS attempts to understate its market power and overstate relevant supply elasticities by noting that a substantial number of customers chose to purchase telephone service from GCI rather than from ACS when ACS raised its retail rates by 24% in November 2001. ACS asserts that GCI's ability "to absorb all the new customers without capacity constraint" ... "underscores the supply elasticity in the Anchorage market." [*ACS Petition*, pp. 38-39] Similarly, Professor Shelanski asserts "Such elasticity of competitive supply and demand could not exist in a market where the incumbent has market power." [*Shelanski Statement*, ¶12] These assertions are (at best) misleading because they do not distinguish between outcomes that occurred when GCI had regulated access to UNEs and the outcomes that are likely to occur if such access is denied.

89. GCI purchased UNEs from ACS at regulated rates to serve most, if not all, of the customers in Anchorage who chose not to bear the 24% price increase that ACS implemented in November of 2001. The relevant question today is whether GCI would be able to serve economically all customers that would like to escape additional substantial price increases that ACS might implement. Under forbearance, ACS could make it difficult or impossible for GCI to serve these customers. ACS would have considerable latitude to employ its position as the dominant supplier of key inputs in Anchorage to raise the costs of GCI and other CLECs, and thereby prevent its competitors from offering low prices to disgruntled ACS customers.

90. As explained in section 2, an ILEC like ACS that is a dominant supplier of essential inputs has considerable ability and incentive to raise its rivals' costs, and thereby induce higher

retail prices. This is the case regardless of retail market shares. Had forbearance empowered ACS to do so in 2001, ACS gladly would have increased UNE prices to a level that prevented GCI from economically offering lower prices to many unhappy ACS customers. Because Professor Shelanski and ACS focus their discussion on retail market shares and largely ignore the substantial market power that ACS derives from its dominant control of essential inputs, their claims of limited market power for ACS are not credible.

C. ACS would exercise its market power if forbearance were adopted in Anchorage.

91. Competitive retail prices will materialize only if multiple retail operators have access to essential inputs at rates that reflect the costs of an efficient wholesale supplier. Given its wholesale market power, ACS will not make UNEs available to CLECs at such rates if it is not compelled to do so by regulation.

92. To its credit, ACS does not claim that it will offer such competitive rates. ACS asserts only that it is in its "financial self-interest to negotiate market-based terms for UNEs in Anchorage." [*ACS Petition*, p. 43] Because ACS does not define the term "market-based," ACS provides little insight about the extent to which it will employ its wholesale market power to raise the costs of its retail rivals and thereby raise retail prices above competitive levels.

93. However, ACS appears to suggest that the UNE rates it negotiated with GCI in Fairbanks and Juneau may be indicative of the rates that are likely to emerge from voluntary negotiation in Anchorage if forbearance is adopted in Anchorage. [*ACS Petition*, pp. 34-35] For the reasons explained in greater detail in Dana Tindall's declaration, this suggestion is disingenuous at best. After making contradictory representations to potential investors and to the Regulatory Commission of Alaska, ACS was highly motivated to avoid further embarrassment and to foster some regulatory goodwill. Absent ongoing regulatory surveillance and absent an ongoing need to save face, ACS is highly likely to be more obstinate in any future voluntary negotiations with GCI and other CLECs.[57]

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[57] ACS recently requested a monthly rate of $25.88 for a DS-0 loop in Anchorage. [*Anchorage Arbitration Petition*] ACS may well insist on recovering at least this amount in any negotiations with GCI. If successful in this regard, ACS would raise the price GCI must pay for this essential input by nearly 40% (from the $18.64 established in the *GCI/ACS of Anchorage Interconnection Agreement*, Part C, Effective November 26, 2004 to $25.88). Retail customers are almost certain to be asked to bear a substantial portion of this dramatic cost increase.

94. ACS also appears to suggest that reasonable UNE rates will be negotiated under forbearance in Anchorage when it asserts "GCI's and ACS's bargaining power have equalized", citing "GCI's substantial market share and extensive facilities." [*ACS Petition*, p. 31] Similarly, Professor Shelanski claims "ACS and GCI have comparable market share and, with forbearance, would enjoy comparable bargaining power." [*Shelanski Statement*, ¶24] These suggestions are implausible for at least two reasons. First, retail market share is not a reliable measure of bargaining power, just as it is not a reliable measure of market power. Indeed, the greater the number of profitable retail customers that GCI serves, the more determined ACS likely will be to charge high UNE prices or withhold UNEs altogether in order to limit (if not eliminate) GCI's ability to serve those customers. Second, as noted above, GCI continues to serve the majority of its customers using UNEs secured from ACS, ACS continues to supply the lion's share of loops in Anchorage, and expanded supply by alternative providers seems unlikely in the near future. Thus, just as it ignores wholesale market conditions in understating its market power, ACS downplays its dominance of relevant wholesale markets in understating its bargaining power.

95. ACS also claims that "Because ACS desires access to GCI's facilities in areas where ACS's network does not reach, ACS has substantial incentives to negotiate reasonable rates and terms for GCI's use of ACS's facilities in order to obtain similarly reasonable access to GCI's facilities." [*ACS Petition*, p. 43] ACS' logic in this instance might have some merit if ACS and GCI had exclusive access to comparable numbers of customers. Such symmetry is not present in Anchorage, however. ACS is able to identify only "several subdivisions on Elmendorf Air Force Base and two commercial office buildings" in which GCI is the only carrier with loop facilities. [*ACS Petition*, p. 13] Approximately 700 customers are served on Elmendorf Air Force Base using GCI's loops.[58] In contrast, more than 145,000 of the roughly 179,000 switched lines in service in Anchorage (81%) presently are served using ACS loops.[59] The asymmetry in the number of customers for whom ACS and GCI can serve as the exclusive facilities-based operator is striking. The asymmetry casts serious doubt on ACS' claim that it will have "substantial incentives to negotiate reasonable rates" for UNEs.

96. Thus, ACS' vague assertions and promises of "market-based" UNE rates make apparent the fact that if its petition for forbearance is granted, ACS will exercise its market power in

[58] See the Declaration of Blaine Brown.

[59] See the Declaration of William Zarakas.

Anchorage. It will do so either by declining to supply UNEs or by charging supracompetitive prices for UNEs. Both actions will cause retail rates for telecommunications services in Anchorage to rise above competitive levels.

D. Retail market share is not a reliable measure of market power.

97. ACS points to prevailing retail market shares to support its claim that it would not be able to exercise market power if forbearance were adopted. This argument is fundamentally incorrect for at least three reasons.

98. First, markets shares are notoriously poor indicators of market power in general. Market *shares* provide little information about price *levels*, which are of central importance in assessing market power.

99. Second, market shares can be particularly poor indicators of market power in regulated industries where prevailing market shares may largely reflect past and present regulatory policy (e.g., regulated access to UNEs and limited pricing flexibility for incumbent suppliers). In assessing the merits of forbearance, one must assess likely market power when access to UNEs at regulated rates is not mandated and when retail rate regulation is not imposed. Prevailing market shares may not even predict future market shares well under such conditions, and they are likely to be particularly poor indicators of future market power.

100. Third, and perhaps most importantly, retail market shares fail to measure wholesale market power. As explained in section 2, even if a CLEC serves the vast majority of retail customers (both presently and in the future), those customers will not be well served if an ILEC has substantial market power in the provision of key wholesale services. By charging high prices for (or limiting the supply of) key inputs, the ILEC can raise its rivals' costs and thereby force them to charge high retail prices to consumers. Under these circumstances, retail customers may be harmed by prices well above competitive levels even in the presence of intense competition among retail suppliers.[60]

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[60] A forbearance policy based on retail market shares also can limit incentives for intense market competition. An incumbent supplier may not compete aggressively to maintain its market share if, by reducing its share of the retail market, the incumbent can secure greater flexibility in setting wholesale prices. A CLEC may compete less vigorously for customers if it recognizes that success in this regard will be punished with more limited access to UNEs at regulated rates.

E. Wholesale market power is of central concern.

101. ACS consistently fails to recognize the link between its dominant position in relevant wholesale markets and its ability to raise retail prices, even in the presence of intense retail competition. By ignoring the well-established economic principles and the consistent Commission policy reviewed in section 2, ACS fails to account adequately for the central issue in the present proceeding: ACS' dominant position in relevant wholesale markets endows it with the ability to raise the costs of its retail rivals, and thereby raise retail rates above competitive levels.

102. The rationale for ACS' assertion that "GCI has as much 'market power' in Anchorage as ACS" is difficult to discern. [*ACS Petition*, p. 6] ACS and GCI may have comparable retail market shares, but comparable retail market shares do not imply comparable market power. Professor Shelanski appears to recognize the importance of considering wholesale market power when he states "Once the evidence shows that a competitive entrant suffers no impairment … the state of the wholesale input market is irrelevant." [*Shelanski Statement*, ¶21] However, aside from the critical fact that no lack of impairment has been established in Anchorage,[61] this statement ignores the important distinction between the capabilities of a particularly efficient CLEC and a reasonably efficient CLEC. Even if an exceptionally efficient CLEC were not impaired when denied regulated access to UNEs, reasonably efficient CLECs might be so impaired. Consequently, reasonably efficient CLECs could not be relied upon to dissipate the ILECs market power, and so the fate of retail consumers would rest on the performance of duopoly wholesale markets. As noted in section 5, there is substantial empirical evidence that consumers often are not protected adequately by duopoly competition (e.g., Armstrong et al., 1994; Parker and Röller, 1997; Newbery, 1999).

F. Entry barriers persist in Anchorage.

103. ACS asserts "There are no barriers to entry in the Anchorage wholesale market." [*ACS Petition*, p. 35][62] ACS attempts to support this assertion by contending that "in Anchorage, there

[61] To the contrary, the Declarations of Blaine Brown, Gary Haynes, and William Zarakas provide strong evidence of impairment in relevant markets in Anchorage, consistent with the Commission's national finding of DS0 loop impairment.

[62] Similarly, Professor Shelanski asserts "GCI does not face barriers to facilities-based entry …" [*Shelanski Statement*, ¶14]

are no entry barriers, only costs of doing business." [*ACS Petition*, p. 35] This contention is incorrect as a matter of logic and fails to establish the absence of entry barriers.

104. An entry barrier is commonly defined as "a cost of producing ... which must be borne by firms which seek to enter an industry but is not borne by firms already in the industry" (Stigler, p. 67). Therefore, by definition, high costs that CLECs alone must bear to serve customers constitute an entry barrier.

105. The Declarations of Blaine Brown, Richard Dowling, Gary Haynes, and William Zarakas document the high costs CLECs must incur to serve customers using their own facilities exclusively. These high costs constitute entry barriers in relevant markets in Anchorage. The entry barriers support ACS' wholesale market power.[63] Forbearance in Anchorage is contrary to the public interest precisely because of ACS' persistent wholesale market power.

G. ACS exaggerates the extent of intermodal competition.

106. Continuing its misplaced focus on the intensity of retail competition, ACS claims customers in Anchorage presently "can obtain effective substitutes to ILEC services using commercial wireless radio services ("CMRS"), broadband-based VoIP services and other technologies." [*ACS Petition*, p. 16] This claim is misleading in at least two respects. First, to my knowledge, "over-the-top" VoIP with the ability to provide a local Anchorage telephone number is not marketed to consumers in Anchorage.[64] Furthermore, ACS has not provided any basis for concluding that over-the-top VoIP is in the same product market as ACS' local exchange and exchange access services.[65] Second, ACS' claim runs counter to Commission findings. The Commission has noted, for example, that CMRS is "primarily a complementary technology to wireline narrowband service" and that "wireless CMRS connections in general do not yet equal traditional landline local loops in their quality, their ability to handle data traffic, and their ubiquity". [*TRO*, ¶230] The Commission has also observed that "... consumers tend to use

[63] The Commission has noted that "relevant structural barriers ... [include] (1) economies of scale; (2) sunk costs; (3) first-mover advantages; (4) absolute cost advantages; and (5) barriers within the control of the incumbent." [*TRO Remand*, ¶10]

[64] For example, Vonage's website (www.vonage.com/avail.php?lid=nav_avail) does not list Alaska as one of the states in which Vonage offers service.

[65] Absent such evidence, the Commission has declined to include over-the-top VoIP services in the same product market as traditional wireline local service. [*SBC-AT&T Order*, ¶88] and [*Verizon-MCI Order*, ¶89]

wireless and wireline services in a complementary manner and view the services as distinct because of differences in functionality. As a result, a relatively limited number of mass market consumers have chosen to substitute one service for the other."[66] Most recently, even when the Commission has considered some CMRS to be in the same product market as wireline local exchange service, the Commission failed to find that CMRS "ha[d] a price constraining effect on all consumers' demand for primary line wireline services."[67] Thus, the rationale for ACS' claim that CMRS and VoIP are "effective substitutes" for relevant ILEC services is not apparent.

107. Even if VoIP and CMRS were reasonable substitutes for relevant ILEC services for some customers, VoIP and CMRS would not eliminate ACS' wholesale market power. ACS would still have the ability and incentive to employ its wholesale market power to raise its CLEC rivals' costs and execute a price squeeze. Consequently, ACS' mention of VoIP and CMRS simply diverts attention from the central issue in this proceeding: ACS' wholesale market power.

H. The entirety of Anchorage is not the relevant geographic market.

108. ACS claims (with little relevant supporting detail) that "All areas of the Anchorage study area are equally competitive ..." [*ACS Petition*, p. 27] This claim is incorrect. In fact, competitive conditions vary considerably in different parts of Anchorage. GCI does not even have cable plant in the ACS' Girdwood wire center, and so is unable to provide facilities-based competition in this region. Furthermore, the extent to which GCI provides full facilities-based operation varies considerably across ACS' wire centers in Anchorage. GCI serves **[BEGIN CONFIDENTIAL][END CONFIDENTIAL]** of its residential customers in ACS' East wire center using its own facilities exclusively, for example, while GCI employs UNEs secured from ACS to serve **[BEGIN CONFIDENTIAL][END CONFIDENTIAL]** of its residential customers in the O'Malley and Rabbit Creek wire centers.[68]

109. In addition, the costs of implementing full facilities-based operation vary substantially in different geographic regions within Anchorage. Costs vary due to differences in: (i) the extent to which cable plant has been upgraded to permit high quality telephone service; (ii) population

[66] *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation For Consent to Transfer Control of Licenses and Authorizations*, File Nos. 0001656065, et al., WT Docket Nos. 04-70, 04-254, 04-323, Memorandum Opinion & Order, Released October 26, 2004, ¶239.

[67] [*SBC-AT&T Order*, ¶90, n. 277] and [*Verizon-MCI Order*, ¶91, n. 276].

[68] See the Declaration of William Zarakas.

density; (iii) housing structure (MDUs vs. non-MDUs); and (iv) accessible conduits and rights of way, for example. Such cost variation implies the near-term potential for full facilities-based operation – and thus the relevant intensity of competition – varies *substantially* across geographic regions within Anchorage.[69]

110. An accurate assessment of ACS' market power requires distinct analyses in regions with distinct competitive conditions. It is entirely possible that a reasonably efficient CLEC would be impaired without regulated access to UNEs in one region of a large geographic region but not in another. Consequently, forbearance would be appropriate in the former region, but not the latter. This is not a "strange result ...", nor does it imply that it is appropriate to make a single forbearance decision that necessarily applies to the entire geographic region, contrary to Professor Shelanski's assertions [*Shelanski Statement*, ¶¶14,16]

111. Professor Shelanski's assertions also suggest he believes that because GCI presently serves some customers using only its own facilities, GCI can serve all customers economically using its own facilities exclusively. This belief is incorrect for at least two reasons. First, GCI's costs of full facilities-based operation vary considerably in different geographic markets in Anchorage. Second, GCI's costs of transitioning to full facilities-based operation could increase substantially if it were compelled to implement the transition at an irrationally rapid pace.

112. For reasons of administrative practicality, forbearance decisions can reasonably apply to geographic regions that do not coincide exactly with relevant geographic markets.[70] However, when competitive conditions vary substantially across readily identifiable geographic regions as they do in Anchorage, it is inappropriate to view the entire ACS Anchorage study area as the relevant geographic market. Use of such a broad market definition would fail to account for relevant heterogeneity in competitive conditions within Anchorage and would thereby provide an inaccurate assessment of ACS' market power in relevant geographic markets.

I. Competition should replace – not rely upon – retail rate regulation.

113. ACS suggests that its current obligation to charge uniform retail prices for basic services throughout Anchorage will serve to protect all consumers in Anchorage from ACS' market

[69] See the Declarations of Blaine Brown, Richard Dowling, Gary Haynes, and William Zarakas.

[70] Some aggregation of relevant geographic markets in which competitive conditions are similar, but not identical, can be reasonable, particularly if ongoing pricing regulations require carriers to charge uniform rates across wide geographic regions.

power, not simply the fortunate customers who would continue to have meaningful competitive choices if forbearance were implemented in Anchorage. [*ACS Petition*, pp. 28-29] As noted above, forbearance is appropriate only when competition can replace retail rate regulation. Reliance on perpetual retail rate regulation to justify forbearance is ill-advised and contrary to the goals of the Act.

114. Even if perpetual retail rate regulation could somehow be guaranteed (despite the recent trend toward increasing pricing freedom for ACS, and despite ACS' acknowledgment that it has applied for and expects to obtain such pricing freedom), uniform price regulations generally do not promote competitive retail prices. ACS will be reluctant to reduce its price aggressively in one portion of Anchorage if doing so will require it to reduce its price throughout Anchorage. Consequently, uniform retail price regulations can induce prices above competitive levels throughout Anchorage.[71]

115. Furthermore, even the current regulations do not preclude ACS from charging different customers different prices for comparable services in Anchorage. Like most suppliers of telecommunications services, ACS responds to competitive pressures by tailoring the prices it charges to medium and large enterprise customers to meet (or beat) the prices offered by competing service providers. If forbearance from unbundling obligations is implemented in Anchorage, ACS will have pronounced ability to raise UNE prices and thereby either preclude GCI from competing effectively for the many enterprise customers that it cannot serve using its own facilities exclusively or force GCI to raise its retail prices substantially.[72] Through such exercise of its wholesale market power, ACS will be able to impose monopoly prices on these enterprise customers even if the prevailing price regulations in Anchorage never change (which is highly unlikely). Forbearance would free ACS to engage in more widespread exploitation if (as seems likely) future regulations endow ACS with expanded retail pricing flexibility.

116. Uniform price requirements also do not ensure uniform service quality. Consequently, customers who live in portions of Anchorage where CLECs are unable to constrain ACS' market power could suffer from reduced service quality, even if they were not charged higher prices than consumers in other portions of Anchorage.

[71] In this respect, uniform price regulation shares the well-known drawback of promises by unregulated firms to charge the same price to all of their customers (e.g., Cooper, 1986).

[72] See the Declarations of Gary Haynes and William Zarakas.

117. Of course, forbearance also would permit ACS to employ its wholesale market power to raise its rivals' costs and thereby compel high retail prices in Anchorage. Even if retail rates are uniform throughout Anchorage, supracompetitive retail rates harm consumers and are contrary to *the public interest.*[73]

J. Forbearance will not spur increased CLEC investment.

118. ACS contends that GCI will be compelled to pursue full facilities-based operation more aggressively if it is denied regulated access to UNEs.[74] ACS offers no support for this claim. As noted above, ACS admits that "GCI is aggressively migrating its customers off of ACS' network and onto its own switched cable telephony network." [*ACS Petition*, p. 31] Thus, ACS' contention that forbearance will foster full facilities-based competition may be more an appeal for expanded freedom to exercise its wholesale market power than a principled justification for forbearance.

119. As the Declaration of William Zarakas reveals, GCI would incur financial losses if it were to attempt to serve medium and large businesses using its own facilities exclusively. Losses from serving residential customers who live in MDUs or customers not located on GCI's cable plant also seem likely. Forbearance is unlikely to induce GCI to pursue unprofitable activities. Instead, forbearance primarily would empower ACS to raise its rivals' costs and thereby harm competition and retail customers in Anchorage.

120. ACS recognizes that if it can convince the Commission to eliminate regulated access to UNEs quickly, GCI likely will be unable to serve many of its customers economically using its own facilities exclusively. Consequently, GCI will be compelled either to limit its service to customers or to serve some customers at a loss while paying ACS supracompetitive rates for UNEs. To no one's surprise, all of these outcomes are highly beneficial for ACS.

K. Forbearance will not increase competition.

121. Professor Shelanski asserts that providing CLECs with regulated access to UNEs promotes "comparatively lower competition." [*Shelanski Statement*, ¶18] To support this

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[73] Even if price levels are regulated, ACS can prevent competitors from reducing retail prices below regulated levels. ACS can do so by raising UNE prices (and thus CLEC costs) to the point where CLECs cannot operate profitably at retail prices below regulated levels.

[74] ACS asserts that regulated access to UNEs "discourages GCI from investing more heavily in its own facilities." [*ACS Statement*, p. 39]

assertion, Professor Shelanski suggests that GCI will be less likely to negotiate access to the (very few) customers it serves exclusively if GCI has regulated access to UNEs.[75] *[Shelanski Statement,* ¶18]

122. Even if this unsubstantiated suggestion were true, it does not imply consumers are better served by denying CLECs regulated access to UNEs. As Professor Shelanski argues elsewhere in his statement, "consumers benefit more from facilities-based competition" than from other forms of competition. [*Shelanski Statement,* ¶13] If, indeed, GCI is more inclined to negotiate ACS access to GCI facilities when GCI is denied regulated access to UNEs, such a denial would seem to limit the likelihood of independent investment by ACS. Consequently, by Professor Shelanski's own logic, forbearance would reduce the extent of facilities-based competition, and thereby harm consumers.[76]

9. Conclusions.

123. In concluding, I emphasize the three primary conclusions in this declaration.

124. First and foremost, forbearance is not appropriate in Anchorage at the present time. Forbearance is appropriate only when ACS would not have market power if CLECs were denied regulated access to UNEs. In many geographic and product markets in Anchorage, ACS is the dominant supplier of key inputs and reasonably efficient CLECs would be impaired without regulated access to UNEs. Consequently, ACS would retain and exercise wholesale market power in many geographic regions in Anchorage if CLECs were denied regulated access to UNEs.

125. Second, ACS' arguments for forbearance are cursory, incomplete, and misleading. ACS fails to recognize the appropriate link between forbearance and the absence of market power. In discussing prevailing retail market shares, ACS ignores both the conditions under which these shares have developed and ACS' substantial market power in relevant wholesale markets. ACS also exaggerates the ability of resale competition and competition based on negotiated UNE rates to limit its market power.

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[75] In fact, GCI already has offered to negotiate such access with ACS. (See the Declaration of Blaine Brown) Thus, the basis for Professor Shelanski's suggestion is not apparent.

[76] Professor Shelanski's enthusiasm for situations in which ACS and GCI experience more extensive reliance upon one another in different geographic regions also appears to ignore the well-known principle that multi-market contact of this sort can reduce the intensity of competition among market participants, and thereby harm consumers (e.g., Bernheim and Whinston, 1990).

126. Third, GCI is an exemplary CLEC that is working diligently to implement full facilities-based operation. GCI does not need to be prodded by forbearance to employ its own facilities more extensively. By punishing GCI for its exceptional performance, forbearance in Anchorage would both harm consumers in Anchorage and seriously undermine incentives for exceptional performance by CLECs throughout the United States.

127. In short, the Act is working in Anchorage and should be permitted to continue working. Forbearance in Anchorage at the present time would be contrary to the goals and mandates of the Act, would harm consumers and limit competition in Anchorage, and would send inappropriate signals to CLECs throughout the United States. Thus, forbearance from unbundling obligations in Anchorage is contrary to the public interest.

Respectfully submitted,

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Appendix

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1988 - 1992	*The American Economic Review*	(Board of Editors).

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